IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

NOTICE OF MOTION NO.3662 OF 2007
IN
SUIT NO.2714 OF 2007

Nivedita Athani ..Plaintiff.
Vs.
Ramkrishna Kushe and others .. Defendants.

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Mr. Pradeep Sancheti with Mr. Vinod Kulkarni i/b M/s. Apex Law Partners for the Plaintiff.
Mr. Harihar Bhave i/b Bhave & Co. for Defendant No.9.
Mr. A.A. Joshi with Ms. Manisha Pant for Defendant No.16.

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CORAM: **DR. D.Y. CHANDRACHUD, J.**

10th December, 2007.

P.C. :

1. Defendant No.8 has not appeared before this Court despite service of the notice.

2. The Plaintiff was in occupation of premises admeasuring 1020 sq. ft. An agreement was entered into on 9th September, 2002 under which the Plaintiff agreed to vacate the premises in lieu of alternate accommodation admeasuring 1021 sq. ft. being provided to the Plaintiff. Flat No.205 which was earmarked for the

Plaintiff on the second floor has, however, been sold to Defendant No.16 which has acquired the flat from the developer for valuable consideration under a registered agreement. The Eighth Defendant assigned the benefit of the agreement for development to the Thirteenth Defendant. In paragraph 10(e)(v) it has been stated that Defendant Nos.1, 8 and 13 have purported to transfer the flats in the building constructed on the property to their own partners / employees. Prima facie, it would appear that an attempt has been made to defeat the rights of the Plaintiff under the agreement dated 9th September, 2002. The Plaintiff is in possession today of flat NO.404 admeasuring 520 sq. ft. Pending the hearing and final disposal of the suit, the possession of the Plaintiff in respect of the aforesaid flat shall have to be protected and there shall be an order accordingly. There shall be an injunction restraining the Defendants from disturbing the possession of the Plaintiff of flat No.404. There shall also be an order of injunction restraining the Defendants from parting with the possession of the flats more particularly described in paragraph 10 (e)(v) and/or selling or creating any third party interest except in flat Nos. G-2 and 505.

The Notice of Motion is accordingly disposed of.